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I am only sending the hard copies for good measure and in case any of those electronic filings have failed to appear, as I am unable to verify that they appeared for lack of access to the docket.

CLERK'S OFFICE U.S. DIST. COURT
AT CHARLOTTESVILLE, VA
FILED

OCT 08 2021

JULIA C. DUDLEY, CLERK
BY:  DEPUTY CLERK

- Christopher Cantwell 9-30-2021



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- 1) In mid-September, 2021, Cantwell was able to begin reviewing the report of Plaintiff's experts Simi and Blee.

Cantwell has previously moved to bar any testimony relating to an incitement or aiding and abetting theory of liability, as opposed to a conspiracy theory, and, some of Simi and Blee's proposed testimony seems to be directed towards such a theory. Further, this Court previously disposed of a motion

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to exclude aspects of Simi and Blee's testimony other than those contested here and invited further objection in said order. Sines v Kessler 2021 US Dist LEXIS 72553 (WD Va 2021).

- 2) Simi and Blee are two left wing university professors who were each paid \$30,000 out of Plaintiff's #SueANazi funds to take woke progressive and neo-Marxist tropes and compile them into a "report" giving the Plaintiff's political motives in bringing this case a veneer of academic respectability. Simi and Blee's claim is that they have previously studied some entity that they call the "white supremacist movement" and that this study has given them special insight into secret Nazi codes that were used on the Discord servers used in the organization of the Unite the Right rallies of August 11 and 12, 2017, much as if they were human Enigma machines. This Court previously ruled that Simi and/or Blee may testify to the "coded" meanings of Defendants' Discord posting but that "Defendants may later raise specific objections when the experts testify at trial." Sines (WD Va Apr 15, 2021).
- 3) A review of Simi and Blee's report, however, indicates that Simi and Blee intend to testify way outside that limited bounds in which their testimony as to Nazi secret codes may be relevant. Aristotle, in the fifth book of his Politics, states that a tyrant overturns a republic by building a coalition of immigrants, women, and slaves, unites them with socially marginal elements, and, turns them against the polis' proper citizens, and, it seems that Simi and Blee's purpose in this litigation is to bring all of Aristotle's coalition of tyranny to bear against the Defendants by testifying about alleged animus the Defendants bear towards "immigrants, social minorities, and feminism."

- 4) As previously briefed, 42 USC §1985(3) and US Const Amend XIII proscribe private conspiracies to bring the Negro back into slavery; they do not extend to private conspiracies against "Jews", Antifa, the woke progressive left, or, as here, "immigrants", "social minorities" (whatever those are, as the Defendants here, being white working people struggling to build a nation in which they and their families may live at peace, are the most oppressed and marginalized "social minority" in the United States), and, "feminism." Griffin v Breckenridge 403 US 88 (1971); United Brotherhood of Carpenters and Joiners v Scott 463 US 825 (1983); Shaare Tefile Congregation v Cobb 785 F 2d 523 (4th Cir 1986); Harrison v HVAT Food Management 706 F 2d 155 (4th Cir 1985). To these cases, Cantwell also adds Bray v Alexandria Clinic 506 US 263 (1993), where the Supreme Court found that animus against feminists and the women they dupe is not proscribed by 42 USC §1985(3) because such animus is not invidious, and, he reminds the Court of St Francis v al-Kharaj 481 US 604 (1987); which found that national origin is not protected as a "race" under 42 USC §1981, et seq.
- 5) Similarly, Va Ann Code §8.01-42.1 provides a civil cause of action for racially and religiously motivated assault, not assault motivated by animus against immigrants, feminists, or, so-called "social minorities."
- 6) For the same reason that evidence of animus against those who identify as "Jews" should be barred, evidence of animus against immigrants, feminists and so-called "social minorities" should also be barred. Here, the Plaintiffs are part of the socially dominant majority culture of this country's liberal internationalist elite. Part of this dominant culture is the tactic of "crying out in pain

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as you slap someone", the pretense that you, a member of this country's chosen, socially dominant elite, are, in fact, an "oppressed" person, and, the people that you have actually enslaved and tyrannize over are somehow "oppressing" you by even speaking out against the harm they are experiencing. Their sole purpose in bringing in irrelevant testimony from Simi and Blee is to try to build a coalition within the jury based on identity that will enter a verdict against the Defendants because they are white males, and, thus, not part of Aristotle's tyrannical coalition of the "oppressed". This is not a proper purpose of testimony, and, this courtroom is not hosting a Maoist struggle session. If the jury wants to be brainwashed, they can attend a university or turn on CNN; they shouldn't be subject to this pap here.

- 7) As to the supposed coded messages within the Discord testimony, which is the only proper scope of Simi and Blee's testimony, it appears that Simi and Blee want to talk about "the Defendants" without specifying which Defendant and what specific evidence they used to incorporate that Defendant into their conspiracy theory. Cantwell particularly objects to this because there is no foundation to find that he was on the "Southern Front" Discord server, and, he had very little interaction with the "Charlottesville 2.0" Discord server. It is not expected that Simi or Blee are going to testify about coded messages Cantwell made on Discord or at the August 11-2017, meeting where he allegedly joined the conspiracy (a transcript of which has been tendered to the Court). Simi and Blee do appear to have reviewed some podcasts Cantwell was involved in, but, those podcasts should be excluded as evidence towards an aiding and abetting theory as described in Cantwell's prior motion.

8) Because there is essentially ¹⁹⁹⁷⁴Discord evidence against Cantwell, Simi and Blee should not be permitted to generalize about him as if he were similarly situated to the other "Defendants", or, as if there was some generic "Defendants" on trial, and, specific persons who have to be specifically linked to this conspiracy. To avoid spill-over from this intentionally highly prejudicial, not very probative, testimony, Cantwell asks that Simi and Blee be barred from testifying generally about "the Defendants", and, that their testimony be limited to Defendants who were on the Discord server whose communications on Discord are the subject of their scrutiny.

And, thus, Cantwell Moves this Court in Limine to enter an appropriate Order Limiting the Testimony of Simi and Blee And Barring All Argument Or Evidence About Alleged Animus Towards "Immigrants, Social Minorities, And Feminism."

Respectfully Submitted,



Christopher Cantwell
USP-Marion
PO Box 1000
Marion, IL 62959

CERTIFICATE OF SERVICE

I hereby certify that this Motion in Limine was mailed to the Clerk of the Court, 1st Class Postage prepaid, for posting on the ECF, to which all other parties are subscribed, and, handed to USP-Marion staff members Nathan Simpkins and Kathy Hill for electronic transfer to the Court this 1st day of October, 2021.



Christopher Cantwell

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(a)(4), and, that Lipstadt's proposed testimony goes towards an

aiding and abetting theory at best and is thus both irrelevant and without foundation vis-a-vis the pled conspiracy theory. Now, as it appears that this testimony has no purpose except to inject the "Holocaust" into the proceedings and to thereby confuse and mislead the jury, Cantwell moves that it and any similar evidence be excluded on this ground as irrelevant and inflammatory.


- 2) "Under [Federal] Rule [of Evidence] 702, a district court must ensure that the expert is qualified and that the expert's testimony is both relevant and reliable." United States v Smith 919 F 3d 825 (4th Cir 2019), citing Daubert v Merrell Dow Pharms Inc 509 US 579 (1993). The Fourth Circuit "has explained that whether testimony 'assist[s] the trier of fact' is the 'touchstone' of Rule 702." United States v Campbell 963 F 3d 309 (4th Cir 2020). "[E]ven if an expert witness opinion is inadmissible under Rule 702, Rule 403 permits the district court to exclude relevant opinion testimony if its probative value is substantially outweighed by a danger of ... unfair prejudice." Campbell. Further, expert testimony must be "not only relevant, but, reliable." Daubert; United States v Mallory 989 F 3d 730 (4th Cir 2020). "To be reliable, the testimony must be based on scientific, technical, or other specialized knowledge and not on belief or speculation and inferences must be derived using scientific or other valid methods." Belville v Ford Motor Co 919 F 3d 224 (4th Cir 2019) citing Oglesby v Gen Motors Corp 190 F 3d 244 (4th Cir 1999). Experts may not testify on matters "obviously ... within the common knowledge of jurors." United States v Fuertas 805 F 3d 485 (4th Cir 2015). These standards apply to "all expert testimony." Kumho Tire Co v Carmichael 526 US

- 3) Fed.R.Evid. 403 bars the admission of unfairly prejudicial testimony even if that testimony is also relevant. "Unfair prejudice is the possibility that evidence will excite the jury to make a decision on the basis of a factor unrelated to the issue properly before it." Mullen v Princess Anne Volunteer Fire Co. 853 F 2d 1130 (4th Cir 1988); see also Morgan v Furetich 846 F 2d 941 (4th Cir 1988) (unfair prejudice is that "genuine risk that the ... jury will be excited to irrational behavior ..."). The proposed evidence here is also very much like conduct evidence, except that, instead of having their own conduct introduced, the Defendants are to have introduced against them the alleged conduct of men who died in most cases decades before they were born. "Conduct evidence is inadmissible when "it inflames the jury or encourages them to draw an inference against the defendant based solely on a judgment about the defendants' criminal character or wicked disposition." United Sterling 869 F 3d 233 (4th Cir 2017).
- 4) First, the Holocaust® is just not relevant to this case, and, a comparison to the proposed testimony of Peter Simi and Kathleen Blee shows why. Simi and Blee claim to be experts on something they call the "White Supremacist Movement". They claim that the Defendants are members of this movement, and, thus, their knowledge of this movement can be used to contextualize and "de-code" specific comments attributed to the Defendants on Discord to show a conspiracy. Cantwell has objections to this testimony and particularly its scope, but, this kind of expert testimony is at least admissible: it addresses real facts relating to this case and probative of whether or not there was a conspiracy. What role, however, does the supposed Holocaust® play in this case? The Defendants here

are not accused of playing any role in the Second World War or in the German government prior to 1945. They are not accused of knowing anyone involved in the German government prior to 1945.

The Discord channels used by some of the Defendants may have included references to the Holocaust®, but, Lipstadt is not appearing to try to contextualize these memes for the jury, who should already understand them from common knowledge. Lipstadt's purpose here is to tell the jury that refusing to enter a verdict in the Plaintiff's favor is the moral equivalent of genocide against the "Jewish people", which it is not, and, which is a completely inappropriate argument for Plaintiffs to be making.

- 5) Lipstadt's testimony is nothing but an irrelevant effort to confuse the jury and mislead them into entering a verdict that has nothing to do with whether or not the Defendants conspired to engage in assault. The Defendants here were not only not proponents of genocide, the entire purpose of their peaceful political protest was to oppose the physical and cultural genocide that extremists such as Lipstadt have been carrying out against America's white working class population. Somewhere, persons like Lipstadt have gotten the idea that the Holocaust® is an unlimited license for them to commit crimes against the world's peoples, whether the people of Palestine, or, American and European whites, whose lands are being stolen from them as we speak. This Court should not allow the idea that the Holocaust® is an excuse for the violence that the Plaintiffs visited upon the Defendants to be presented in this courtroom. It is irrelevant, it is a distraction, and, it detracts from the dignity of these proceedings.



Christopher Cantwell
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CERTIFICATE OF SERVICE

I hereby certify that this Motion in Limine was mailed to the Clerk of the Court, 1st Class Postage prepaid, for posting on the ECF to which all parties are subscribed, and, handed to USP-Marion staff members Nathan Simpkins and/or Kathy Hill for electronic transmission to the Court, this 30th day of September, 2021.



Christopher Cantwell

IN THE UNITED STATES DISTRICT COURT FOR THE

WESTERN DISTRICT OF VIRGINIA

1132

Charlottesville Division

Elizabeth Sines, et al

Plaintiffs

v

Jason Kessler, et al

Defendants

Case No: 3:17-cv-072-NKM

MOTION IN LIMINE AND NOTICE OF INTENT TO INTRODUCE STATEMENTS
AGAINST INTERST AND PRIOR TESTIMONY OF UNAVAILABLE WITNESS "EMILY"
GORCENSKI PURSUANT TO FED.R.EVID. 804(b)(3) AND 807

Comes now the Defendant, Christopher Cantwell, and, he Moves this Court
In Limine and gives Notice of Intent to Introduce Statements Against
Interest Of Unavailable Witness "Emily" Gorcenski Pursuant To Fed.R.Evid.
804(b)(3) And 807. In support, he states as follows:

- 1) "Emily" Gorcenski is a biological male who styles himself a woman
and who is a member of the Antifa domestic terrorist organization.
Gorcenski was present at the August 11 and 12, 2017, violence that
is the subject of this litigation, video taped the events extens-
ively, and, was also present at various events prior to this liti-
gation, including a false report that Cantwell
had brandished a firearm at a Walmart parking lot and a
meeting with Plaintiff Seth Wispelwey where the
violence of August 11, 2017, was agreed to and planned. After the
instant events, Gorcenski also ratified the violence that occurred
through numerous social media posts.
- 2) Cantwell is trying to locate and subpoena Gorcenski, but, believes

cess. As such, Cantwell anticipates that Gorcenski will be unavailable to testify in this matter.

3) Cantwell would like to introduce the following statements against interest and/or prior testimonial statements of Gorcenski:

- a) screenshots from Gorcenski's Twitter feed previously appended to Cantwell's Objection To Evidentiary Sanctions Against Defendant Kline;
- b) transcripts of testimony Gorcenski gave during Cantwell's Virginia state criminal proceedings;
- c) Exhibits 121-124 & 126-131 of Cantwell's exhibit list, these being videos of the August 11, 2017, violence at the Thomas Jefferson statue at the University of Virginia ("UVa"), most downloaded from Gorcenski's Periscope account, Periscope being a livestreaming service. As Cantwell was also present for the events depicted in most of this video, these videos are also admissible from his personal knowledge under Fed.R.Evid. 1007 and 602;
- d) Exhibit 137, a video Gorcenski has stated best depicts his involvement in the violence of August 11, 2017, along with his statements;
- e) Exhibit 13, a collection of statements from Gorcenski's Twitter feed generally advocating violence against persons like the Defendants;
- f) Exhibit 20, the release of claims against Cantwell signed by Gorcenski, also admissible pursuant to Fed.R.Evid. 602 from Cantwell's personal knowledge, and, Fed.R.Evid. 201;
- g) Exhibit 44, a letter from attorney Pam Star'sis threatening police not to interfere with Gorcenski's and other's plans for

- h) Exhibit 45, screenshots of Gorcenski doxxing white nationalist participants in the demonstrations of August 11 and 12, 2017, and soliciting violence against them as part of Gorcenski's involvement in the Antifa domestic terror organization;
- j) Exhibit 48-49, livestream videos of Gorcenski recording acts of violence on behalf of the Antifa domestic terror organization July 8, 2017;
- j) Exhibit 51, "Who Are The Antifa", an article by Antifa domestic terrorist Mark Bray glorifying and ratifying the violence committed by Gorcenski and other members of the Antifa domestic terror organization August 11 and 12, 2017. Had Gorcenski been available to testify, he would have testified that he had endorsed the views contained in this article and shared it with other members and supporters of the Antifa domestic terror organization;
- k) Exhibit 55-56, posts from Its Going Down, an Antifa domestic terror website, urging Antifa to resist Grand Jury subpoenas;
- l) Exhibits 55(2) and 56(2) and 71, posts on Its Going Down and Unicorn Collective websites calling for the Antifa domestic terror organization to commit acts of criminal violence on August 11 and 12, 2017;
- m) Exhibits 99-101 and 129, a compilation of videos livestreamed by Gorcenski showing Gorcenski identifying white nationalist demonstrators to be attacked by the Plaintiffs and their Antifa domestic terror associates;
- n) Exhibits 102-103, material from the group "Showing Up For Racial Justice" ("SURJ"), an Antifa domestic terror affiliate, raising bond money in advance of the August 11 and 12, 2017, protests

raising money for the Plaintiffs and their associates in the expectation that Plaintiffs and their associates would commit crimes;

- o) Exhibit 118, a 302 given by Gorcenski to the FBI, also admissible pursuant to Fed.R.Evid. 803(8);
 - p) Exhibit 119 a sworn affidavit given by Gorcenski to obtain a warrant against Cantwell. The statements made in Exhibits 118-119 and Gorcenski's testimony in Cantwell's Virginia criminal cases are inconsistent;
 - q) Exhibits 128 and 130-131, which are compilations of videos of Gorcenski mocking and engaging demonstrators, and then feigning panic or fear and claiming to be under assault for Antifa filmographers.
- 4) The relevance of the above exhibits should be obvious. First, we have videos of the violence of August 11, 2021, shot by Gorcenski, depicting Gorcenski's involvement in violence. We then have a large amount of material which Gorcenski, as a member of the domestic terror organization Antifa, would have been familiar with detailing Antifa's plan to engage in criminal violence August 11 and 12, 2021. And, there is a large amount of material showing Gorcenski feigning victimization and swearing falsely under oath to bring legal process against Cantwell, illustrating the Antifa tactic of engaging in vigilante violence, as the 1870s Ku Klux Klan was alleged to have done, and, then, utilizing legal process to attack those they have just victimized, also like the Klan was alleged to have done and as Plaintiffs are doing here. All of these are statements against interest admissible under Fed.R.Evid. 804(b)(3).
- 5) Similarly, equity demands that this material be admitted even if

Gorcenski cannot be found to provide foundation. The authenticity and trustworthiness of this video is not in dispute, and, can be attested to in part by numerous witnesses, including Cantwell. And, this all goes to the heart of the question here, which is who started the violence August 11 and 12, 2017, and, was it the Defendants acting from racial animus, or, the Plaintiffs acting from anti-white and Judaic supremacist racial animus against the Defendants. As such, this material should be admitted under Fed.R.Evid. 807(a).

Respectfully Submitted,



Christopher Cantwell
USP-Marion
PO Box 1000
Marion, IL 62959

CERTIFICATE OF SERVICE

I hereby certify that this Motion in Limine was mailed to the Clerk of the Court, 1st Class Postage Prepaid, for posting upon the ECF system, to which all other parties are subscribed, and, handed to USP-Marion staff members Nathan Simpkins and/or Kathy Hill for electronic transfer to the Court this 29th day of September, 2021.



Christopher Cantwell

IN THE UNITED STATES DISTRICT COURT FOR THE

WESTERN DISTRICT OF VIRGINIA

Charlottesville Division

1133

Elizabeth Sines, et al

Plaintiffs

v

Jason Kessler, et al

Defendants

Case No: 3:17-cv-072-NKM

MOTION FOR SERVICE BY THE US MARSHALS SERVICE ("USMS") OF
SUBPOENAS TO APPEAR AND TESTIFY UPON DWAYNE DIXON, THOMAS MASSEY,
PAUL MINTON AND LINDSEY MOERS

Comes now the Defendant, Christopher Cantwell, and, he Moves this Court
to order the attached Subpoenas to be issued by the Clerk for Dwayne
Dixon, Thomas Massey, Paul Minton, and, Lindsey Moers to be served upon
them by the US Marshals Service ("USMS"). In support, he states as fol-
lows:

- 1) Cantwell has previously sought in forma pauperis status from this
Court and is without resources to serve these subpoenas.
- 2) Each of the witnesses whose testimony is sought in this matter is a
hostile witness, a member of the domestic terror group Antifa, and,
is expected to resist the subpoena, potentially with violence:
 - a) Dwayne Dixon brandished a rifle at James Fields on August 12,
2017, prompting Fields' car accident, and, otherwise participated
in the armed vigilante mob whose activities prompted these pro-
ceedings;
 - b) Thomas Massey initiated the violence August 11, 2021, by assault-
ing the peaceful group of white nationalist demonstrators that
included Cantwell as they marched towards the Thomas Jefferson

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statute at the University of Virginia ("UVA");

- c) Paul Minton was involved with a group of Antifa that fabricated a story to police that Cantwell had brandished a firearm at them on August 11, 2021, and, is material to the tactics of Antifa, including the tactic of committing violent crimes against perceived enemies and then fabricating legal process against them;
 - d) Lindsey Moers appeared at the UVA event with an ASP baton which she used to assault Cantwell and others, and, then, also appeared at the August 12, 2017, events with another ASP baton which she used to commit assaults.
- 3) Because Cantwell is in forma pauperis and these witnesses are dangerous violent felons, convicted or unconvicted, and, members of a dangerous violent terror organization, Cantwell asks this Court to grant him the assistance of the US Marshals Service in the service of the attached subpoenas.

Respectfully Submitted,



Christopher Cantwell
USP-Marion
PO Box 1000
Marion, IL 62959

CERTIFICATE OF SERVICE

I hereby certify that this Motion for Service by the US Marshals Service was mailed to the Clerk of the Court, 1st Class postage prepaid, for posting upon the ECF, to which all other parties are subscribed, and, was handed to USP-Marion staff members Nathan Simpkins and/or Kathy Hill for electronic transmission to the Court this 29th day of September, 2021.



Christopher Cantwell

AO 88 (Rev. 02/14) Subpoena to Appear and Testify at a Hearing or Trial in a Civil Action

UNITED STATES DISTRICT COURT
for the
WESTERN DISTRICT OF VIRGINIA

Elizabeth Sines, et al)

Plaintiff)

Jason Kessler, et al)

Defendant)

Civil Action No. 3:17-cv-072-NKM

SUBPOENA TO APPEAR AND TESTIFY
AT A HEARING OR TRIAL IN A CIVIL ACTION

To: Lindsey Moers
5111 Fitchburg Dr Holiday, FL 34690

(Name of person to whom this subpoena is directed)

YOU ARE COMMANDED to appear in the United States district court at the time, date, and place set forth below to testify at a hearing or trial in this civil action. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.

Place: <u>United States District Court</u> <u>255 W Main St</u> <u>Charlottesville, VA 22902</u>	Courtroom No.: <u>TBD</u> Date and Time: <u>10/26-11/22/21 9:00 AM</u> <u>each morning</u>
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You must also bring with you the following documents, electronically stored information, or objects *(leave blank if not applicable)*:

[intentionally blank]

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: _____
CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* _____

Christopher Cantwell, who issues or requests this subpoena, are:

Christopher Cantwell USP-Marion PO Box 1000 Marion, IL 62959

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

AO 88 (Rev. 02/14) Subpoena to Appear and Testify at a Hearing or Trial in a Civil Action (page 2)

Civil Action No. 3:17-cv-072-NKM

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for (name of individual and title, if any) Lindsey Moers

on (date) _____

☐ I served the subpoena by delivering a copy to the named person as follows:

_____ on (date) _____; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of

\$ _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.: _____

AO 86 (Rev. 02/14) Subpoena to Appear and Testify at a Hearing or Trial in a Civil Action (page 3)

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

(c) Place of Compliance.

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena: Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) *Contempt.*

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

For access to subpoena materials, see Fed. R. Civ. P. 45(a) Committee Note (2013).

AO 88 (Rev. 02/14) Subpoena to Appear and Testify at a Hearing or Trial in a Civil Action

UNITED STATES DISTRICT COURT
for the
WESTERN DISTRICT OF VIRGINIA

Elizabeth Sines, et al)

Plaintiff)

v.)

Jason Kessler, et al)

Defendant)

Civil Action No. 3:17-cv-072-NKM

SUBPOENA TO APPEAR AND TESTIFY
AT A HEARING OR TRIAL IN A CIVIL ACTION

To: Paul Minton

714 Belgrade St Philadelphia, PA 19125

(Name of person to whom this subpoena is directed)

YOU ARE COMMANDED to appear in the United States district court at the time, date, and place set forth below to testify at a hearing or trial in this civil action. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.

Place: <u>United States District Court</u> <u>255 W Main St</u> <u>Charlottesville, VA 22902</u>	Courtroom No.: <u>TBD</u> Date and Time: <u>10/26-11/22/21 9:00 AM</u> <u>each morning</u>
--	--

You must also bring with you the following documents, electronically stored information, or objects *(leave blank if not applicable)*:

[intentionally blank]

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: _____

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* _____

Christopher Cantwell, who issues or requests this subpoena, are:

Christopher Cantwell USP-Marion PO Box 1000 Marion, IL 62959

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

AO 88 (Rev. 02/14) Subpoena to Appear and Testify at a Hearing or Trial in a Civil Action (page 2)

Civil Action No. **3:17-cv-072-NKM**

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for (name of individual and title, if any) Paul Minton
on (date) _____

☐ I served the subpoena by delivering a copy to the named person as follows:

_____ on (date) _____; or

☐ I returned the subpoena unexecuted because:

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

AO 88 (Rev. 02/14) Subpoena to Appear and Testify at a Hearing or Trial in a Civil Action (page 3)

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

(e) Place of Compliance.

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena: Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) *Contempt.*

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

For access to subpoena materials, see Fed. R. Civ. P. 45(a) Committee Note (2013).

AO 88 (Rev. 02/14) Subpoena to Appear and Testify at a Hearing or Trial in a Civil Action

UNITED STATES DISTRICT COURT
for the
WESTERN DISTRICT OF VIRGINIA

Elizabeth Sines, et al

Plaintiff

v.

Jason Kessler, et al

Defendant

Civil Action No. 3:17-cv-072-NKM

SUBPOENA TO APPEAR AND TESTIFY
AT A HEARING OR TRIAL IN A CIVIL ACTION

To: Thomas Massey

5342 Baltimore Ave Philadelphia, PA 19143

(Name of person to whom this subpoena is directed)

YOU ARE COMMANDED to appear in the United States district court at the time, date, and place set forth below to testify at a hearing or trial in this civil action. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.

Place: United States District Court 255 W Main St Charlottesville, VA 22902	Courtroom No.: TBD Date and Time: 10/26-11/22/21 9:00 AM each morning
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You must also bring with you the following documents, electronically stored information, or objects (leave blank if not applicable):

[intentionally blank]

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date:

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party)

Christopher Cantwell

who issues or requests this subpoena, are:

Christopher Cantwell USP-Marion PO Box 1000 Marion, IL 62959

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

AO 88 (Rev. 02/14) Subpoena to Appear and Testify at a Hearing or Trial in a Civil Action (page 2)

Civil Action No. **3:17-cv-072-NKM**

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* Thomas Massey

on *(date)* _____

☐ I served the subpoena by delivering a copy to the named person as follows:

_____ on *(date)* _____ ; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00

I declare under penalty of perjury that this information is true:

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.: _____

AO 86 (Rev. 02/14) Subpoena to Appear and Testify at a Hearing or Trial in a Civil Action (page 3)

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

(c) Place of Compliance.

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena: Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) *Contempt.*

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

For access to subpoena materials, see Fed. R. Civ. P. 45(a) Committee Note (2013).

AO 88 (Rev. 02/14) Subpoena to Appear and Testify at a Hearing or Trial in a Civil Action

UNITED STATES DISTRICT COURT
for the
WESTERN DISTRICT OF VIRGINIA

Elizabeth Sines, et al)

Plaintiff)

v.)

Jason Kessler, et al)

Defendant)

Civil Action No. 3:17-cv-072-NKM

SUBPOENA TO APPEAR AND TESTIFY
AT A HEARING OR TRIAL IN A CIVIL ACTION

To: Dwayne Dixon
214 W Trinity Ave Durham, NC 27701

(Name of person to whom this subpoena is directed)

YOU ARE COMMANDED to appear in the United States district court at the time, date, and place set forth below to testify at a hearing or trial in this civil action. When you arrive, you must remain at the court until the judge or a court officer allows you to leave.

Place: United States District Court
255 W Main St
Charlottesville, VA 22902

Courtroom No.: TBD

Date and Time: 10/26-11/22/21 9:00 AM

each morning

You must also bring with you the following documents, electronically stored information, or objects *(leave blank if not applicable)*:

[intentionally blank]

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: _____

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* _____

Christopher Cantwell

, who issues or requests this subpoena, are:

Christopher Cantwell USP-Marion PO Box 1000 Marion, IL 62959

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

AO 88 (Rev. 02/14) Subpoena to Appear and Testify at a Hearing or Trial in a Civil Action (page 2)

Civil Action No. **3:17-cv-072-NKM**

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for (name of individual and title, if any) Dwayne Dixon

on (date) _____

☐ I served the subpoena by delivering a copy to the named person as follows:

_____ on (date) _____; or

☐ I returned the subpoena unexecuted because:

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of

\$ _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

As) 88 (Rev. 02/14) Subpoena to Appear and Testify at a Hearing or Trial in a Civil Action (page 3)

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

(c) Place of Compliance.

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the place to be inspected.

(d) Protecting a Person Subject to a Subpoena: Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) When Required. On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

For access to subpoena materials, see Fed. R. Civ. P. 45(a) Committee Note (2013).

19999

Charlottesville Division

Plaintiffs

Case No: 3:17-cv-072-NKM

Defendants

.....

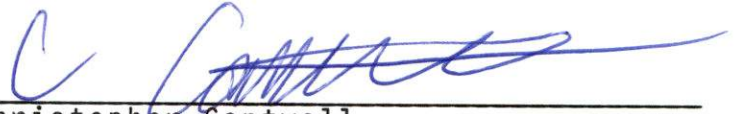
2) Because Cantwell intends to present certain videos, related transcripts, and/or, other evidence at trial during examination or cross-examination of the witnesses, and, because he will not be able as a practical matter to transport that material to the Court, he asks that this Court make arrangements for all of the discovery material in this matter to be made available to him along with any equipment

20000

necessary to present such exhibits to the jury. Cantwell will gladly work with the Clerk and/or Plaintiffs to try to predict what materials will be needed for any given day of trial if the Plaintiffs have some idea in what order they will call their witnesses and how much time they will need.

- 3) Cantwell also requests that the Federal Rules of Evidence and of Civil Procedure be made available to him at the Defendants' table at trial.

Respectfully Submitted,



Christopher Cantwell
USP-Marion
PO Box 1000
Marion, IL 62959

CERTIFICATE OF SERVICE

I hereby certify that this Motion in Limine was mailed to the Clerk of the Court, 1st Class Postage Prepaid, for posting upon the ECF, to which all parties are subscribed, and, was handed to USP-Marion staff members Nathan Simpkins and/or Kathy Hill for electronic transmission to the Court this 27th day of September, 2021.



Christopher Cantwell

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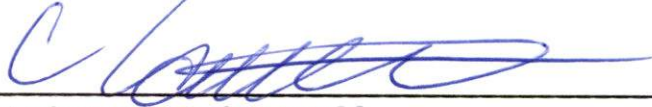
.....

Comes Now the Defendant Christopher Cantwell, and, he Moves this Court In Limine For A Determination That No Private Right Of Action Lies For Conspiracy to Violate A Virginia State Statute Absent Enforcement Provisions, To Bar Plaintiffs From Arguing The Same, And, to Clarify Whether Plaintiffs Have Pled A Valid Claim for Conspiracy To Commit False Imprisonment. In support, he states as follows:

1) Count Three of the instant Second Amended Complaint states that Cantwell and his co-Defendants conspired civilly to commit a variety of acts, including twelve acts of conspiracy to violate ten Virginia state statutes ranging from the severe, conspiracy to riot in violation of Va Ann Code §18.2-408, to the petty, conspiracy to commit disorderly conduct in violation of Va Ann Code §18.2-415, to the bizarre, conspiracy to violate a Virginia statute requiring thirty days notice of intent to introduce evidence of prior bad acts, Va Ann Cod §19.2-297.1.

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- 2) In Doe v Broderick 225 F 3d 440 (4th Cir 2000), the Fourth Circuit addressed the circumstances under which a statute carries an implied right of private action. Following Cort v Ash 422 US 66 (1975), California v Sierra Club 451 US 287 (1981), and, Cannon v Univ of Chicago 441 US 677 (1979), the Fourth Circuit found that there is generally no right of private action to enforce a statute carrying criminal penalties unless the statute specifically provides for a private right of action. As such, the only statute that Plaintiffs have listed that provides for a private right of action is Va Ann Code §8.01-42.1, and, Cantwell asks that the Court bar the Plaintiffs at trial from arguing that Cantwell is liable for conspiring to violate any other state statute.
- 3) Further, in its order granting in part and denying in part the Motion to Dismiss, Sines v Kessler 324 F Supp 765 (WD Va 2018), the Court found that Count Three raised claims for conspiracy to violate Va Ann Code §8.01-42.1 and to commit assault. It did not address the claims for conspiracy to commit battery or false imprisonment. Cantwell still does not have adequate access to the Second Amended Complaint to determine exactly what acts these allegations are based on, but, it does not appear that Plaintiffs Romero or Doe are claiming battery; they do not appear to claim that anyone offensively touched them. Assuming that the battery claims apply to Wispelwey and the persons struck by Fields' car, Cantwell sees no basis for a claim of conspiracy to commit false imprisonment and would like the Court to clarify whether or not he will have to defend against such a claim at trial.

Respectfully Submitted,



Christopher Cantwell

CERTIFICATE OF SERVICE

I hereby certify that this Motion in Limine was mailed to the Clerk of the Court, 1st Class Postage Prepaid, for posting on the ECF, to which all parties are subscribed, and, handed to USP-Marion staff members Nathan Simpkins and/or Kathy Hill for electronic transmission to this Court, 1st Class Postage Prepaid, this 27th day of September, 2021.



Christopher Cantwell

Charlottesville Division

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- 1) Cantwell was convicted of transmission of extortionate threats in interstate commerce in violation of 18 USC §875(b) and (d) in United States v Cantwell D NH Case No: 20-cr-006. This conviction is currently on appeal.
- 2) Cantwell's status as a felon is admissible to impeach him because "one who has transgressed society's norms by committing a felony is less likely than most to be deterred from lying under oath," at least in judicial theory, if not in the actual reality of federal courtrooms. Henslee v Singleton 714 Fed Appx 271 (4th Cir 2018) citing Walden v Georgia-Pacific Corp 126 F 3d 506 (3rd Cir 1997), Knight ex rel Kerr v Miami-Dade City 856 F 3d 795 (11th Cir 2017). The conduct of which he was convicted, however, is not intrinsically related to the instant proceedings nor is it relevant to some material issue at stake here. As such, this conduct is likely to

inflame the emotions of or confuse the jury, and, should be excluded pursuant to Fed.R.Evid. 401-403, especially Fed.R.Evid. 403.

- 3) What Cantwell proposes is that the jury may be told that he has been convicted of a non-violent felony not involving an act of dishonesty.

And, thus, Cantwell moves in limine for this Court to grant such an instruction and to exclude evidence of Cantwell's alleged felonious conduct.

Respectfully Submitted,



Christopher Cantwell
USP-Marion
PO Box 1000
Marion, IL 62959

CERTIFICATE OF SERVICE

I hereby certify that this Motion in Limine was mailed to the Clerk of the Court, 1st Class Postage prepaid, for posting upon the ECF system, to which all parties are subscribed, and, was handed to USP-Marion staff members Nathan Simpkins and/or Kathy Hill for electronic transmission to the Court this 27th day of September, 2021.


Christopher Cantwell

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- 1 -

- 4) In reality, Muhammad states ~~2007~~ that the Court can consider the costs of transporting Cantwell, not assess them. What is says that is more important is that:

"Ideally, ... such a plaintiff [a prisoner] should be present at the trial of his action, particularly if, as will ordinarily be true, his own testimony is potentially critical. Not only the appearance, but, the reality of justice is obviously threatened by his absence."

Muhammad.

The Fourth Circuit also noted that appearance at trial is a Due Process right, and, while it may be limited, it may not be "arbitrarily denied" and that there is a presumption that the prisoner should be present. Muhammad.

- 5) Cantwell also notes that talking about him paying the costs of transportation or housing is incorrect. 18 USC §4007-4008 require that these expenses be paid out of the Treasury, so, one can only talk about recouping those expenses.
- 6) The Plaintiffs here suggest that it would somehow be less expensive for the US Marshals Service ("USMS") to bring Cantwell here for his testimony and then return him than it would be to allow him to participate in the entire trial. This is false. First, the USMS transports prisoners by plane from pickup locations to the central hub at the Federal Transfer Center ("FTC") Oklahoma City, then transports them from that hub to the hub here in West Virginia, from which they are taken on a bus to the local jail. The USMS contract with the local jail pays \$50-\$80 a night to house a prisoner, and, pays certain fees associated with transporting prisoners to the courthouse, about \$30 a trip, or, \$60 a day. The transports to the

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courthouse are already scheduled, involve multiple prisoners, and, there is no additional cost in placing Cantwell on the van going there. So, the total cost of housing Cantwell at the local jail for a month is about \$1500-\$2400, much less than the alleged almost \$16,000 the USMS is claiming. Second, the cost of setting up a special transport, whether a van or a plane ride, for Cantwell from Southern Illinois on the ten hour drive to Charlottesville is more than placing him in the regular transit. The regular transit is already staffed and scheduled; a special van will require two dedicated Marshals to spend a day bringing just him. So, this argument by the Plaintiffs is nonsense, and, again, Cantwell wants discovery as to the costs of transportation, housing, and the like, because the USMS is exaggerating their expenses and likely giving a per-prisoner average cost of transportation after including all of their operating expenses, including the bloated bureaucracy that runs the JPATS (Joint Prisoner and Transport System).

- 7) The Plaintiffs don't want Cantwell at the trial because he intends to cross-examine witnesses, present video, and, confront their case. They have spent the past several years shutting him out of discovery and preparing to use his ignorance of the law to railroad him into a judgment, and, now that they see that threatened, they want Cantwell out of the trial, far away where his ability to examine and cross-examine witnesses will be limited. How will he present evidence such as videos by video conference? USP-Marion doesn't support that feature. How will he hand witnesses exhibits of their own writings calling for violence against him and his co-defendants by video conference? The human element, when a liar is confronted by their lies on the stand is powerful and makes an impression on the jury, but, that element is watered down when the cross-examiner is

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not physically present, and, the liar doesn't have to look into the eyes of the person they are trying to condemn.

Thus, this Court should Order Cantwell produced for the entire trial and acknowledge that it has no authority to assess costs against him.

Respectfully Submitted,



Christopher Cantwell
USP-Marion
PO Box 1000
Marion, IL 62959

CERTIFICATE OF SERVICE

I hereby certify that this Reply was mailed to the Clerk of the Court, 1st Class Postage prepaid, for posting on the ECF, to which all parties are subscribed, and, handed to USP-Marion staff members Nathan Simpkins and/or Kathy Hill for electronic transfer to the Court this 27th day of Septemebr, 2021.



Christopher Cantwell

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF VIRGINIA
Charlottesville Division

1121

Elizabeth Sines, et al

Plaintiffs

v

Jason Kessler, et al

Defendants

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Case No: 3:17-cv-072-NKM

MOTION IN LIMINE TO BAR PLAINTIFFS FROM ARGUING OR PRESENTING
EVIDENCE IN SUPPORT OF THEORIES OF AIDING OR ABETTING OR CONTRIBUTORY
NEGLIGENCE TOWARDS VIOLATIONS OF VA ANN CODE §8.01-42.1,
ASSAULT, OR ANY OTHER TORT

Comes Now the Defendant, Christopher Cantwell, and, he Moves this Court
in Limine to Bar the Plaintiffs From Arguing Or Presenting Evidence At
Trial In Support Of Theories Of Aiding And Abetting Or Contributory
Negligence Towards Violations Of Va Ann Code §8.01-42.1, Assault, Or
Any Other Tort. In support, he states as follows:

Summary

- 1) The Plaintiffs here, in their Second Amended Complaint, have accused Cantwell and the other Defendants of conspiring to violate Va Ann Code §8.01-42.1, conspiring to commit assault, and, conspiring to commit other acts¹, many of which Cantwell will argue separately are not torts, even if they may be criminal violations. However, it appears that, at trial, Plaintiffs are not intending to present evidence of a conspiracy, but, evidence that Cantwell and his fellow Defendants aided and abetted others, not Defendants, in the commission of torts by soliciting, inciting¹, or, otherwise inducing the commis-

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sion of those torts. Because the Second Amended Complaint does not provide Cantwell and the other Defendants notice of an intent to proceed on an aiding and abetting theory of liability pursuant to Fed.R.Civ. P. 8, Cantwell asks that the Plaintiffs be barred at trial from arguing or presenting evidence in favor of such a theory of liability.

The Alleged Conspiracy

- 2) Cantwell has previously presented to the Court a 45 page transcript ("lead trans") of the alleged "leadership meeting" where the Second Amended Complaint states that he agreed to enter into a conspiracy with Kessler, Kline and Ray to engage in assault and violations of Va Ann Code §8.01-42.1. A review of this alleged agreement illustrates the problem that Plaintiffs now face.
- 3) Lead trans, p 1-6 begins with Jason Kessler's appearance. As Kessler discusses the torchlit march which is to begin in about two hours, Cantwell states:

"I'm going to tell you from my perspective, if we're going to do it at all, I want the cops involved ... [M]y suggestion would be let's, if they are, for whatever reason, unwilling or unable to escort us through this, I would suggest calling that part of it off ..."

lead trans p 2.

Does someone conspiring to commit racial assault ask that the police escort him and be present when the assault is supposed to occur? Does he suggest cancelling the event if the police will not provide an escort?
- 4) Cantwell does say, "If these guys fucking attack us, we're going to fucking hurt them," but; Kessler doesn't agree to that; he immediat-

"We really want to look like the good guys ... So the best thing we can do is act like civilized white people ... If you know, if you wanna argue with somebody, by all means, argue with them, try to keep a civil debate, don't use ethnic slurs, that kinda stuff. That is going to get us into trouble ...for this format its not appropriate."

lead trans p 2-3.

Here's Kessler saying don't even use ethnic slurs during this march. Do the Plaintiffs have some expert on "Nazi double talk" who can say that this is evidence of "public face / private face" where Kessler is secretly signalling that this group should commit racially motivated violence? This is the "private face", this is the private meeting. Where's the conspiracy?

- 5) Now, the next speaker is one "Kurt Vandal", a man who is conspicuously absent from the list of Defendants in this case, and, who does try to involve Cantwell and others in an agreement to commit acts of violence, an agreement that Cantwell ultimately declines to join.

lead trans p 6-19. First, no one really seems to know who this "Vandal" is or why he's speaking. He calls himself the "logistics operations director" and he pitches a scenario where the police stand down, a "kill zone" develops, and, the white nationalist demonstrators need to seize Lee Park. lead trans p 6-10. He then tells "all the security forces, all the people who want to be boots on the ground tomorrow" to appear at MacIntire Park for a "shuttle service" that, had it occurred, would have likely taken them directly to the Charlottesville Jail where eager FBI agents and Assistant US Attorneys, like the wife of Plaintiff's counsel, would have been waiting to process them for conspiracy. lead trans p 12-14.

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6) On page 15, "Vandal" tries to bring Cantwell into the conspiracy.

Cantwell, however, is so disinterested that he asks:

"If I were to forget everything else here, where should I be as a speaker?"

lead trans p 15.

This obviously annoys "Vandal," who states:

"Ya wanna get down, rough and dirty, Chris?"

lead trans p 15.

Cantwell then deflects "Vandal" with a joke, "there's a temptation," and, the conversation is then interrupted by the arrival of Kline.

lead trans p 15.

7) "Vandal" then goes on to discuss "Scenarios Green, Yellow and Red".

lead trans p 16-18. This is where he discusses even more explicit fantasy violence:

"Basically, we're being overrun by hostiles. That is case red. This most likely will turn into a gun fight. ... If the vehicle is there ... you need to get behind that vehicle because that vehicle is going 'truck of peace'. ... Its going to clear a path for you."

lead trans p 18.

This is still far from an ISIS-style terror attack; "Vandal" is discussing a contingency plan to respond to an attack with a fantasy of a gun battle in downtown Charlottesville followed by using a truck to force a path out and away from the way. However, Cantwell has no idea what Vandal is talking about:

"Truck a piece? ... truck for each piece of what?"

lead trans p 18.

And, Cantwell never figures it out or agrees to the "Code Red" plan.

8) Vandal then, lastly, suggests ²⁰⁰¹⁴ yet another way the white nationalist demonstrators can get themselves mass arrested for no good reason. lead trans p 19. And, it is clear that federal authorities, like, say, Plaintiff's counsel's wife, were prepared and hoping for a mass arrest of white nationalists on August 12, 2017. Again, however, Cantwell does not agree to this plan for peaceful civil disobedience.

9) Kline now enters the conversation, lead trans p 19-21, and, gives the plan that Cantwell agrees to:

"So, I just got off the phone with the police. They are going to be protecting us and letting us do the torchlight march tonight. They are going to be sending almost all of their police officers that they have on duty and giving some people overtime, having them stand on the outside of us, and, basically, like, try to stay there in case counterprotesters could show up, and, if counterprotesters do show up, essentially what I explained to them our plan and she essentially said that if they see like a bloc or black bloc or whatever, coming towards us, the police are going to move in to stop it. So, we should be okay and we are going to announce on the Discord that this is still going on. Nameless Field, torchlight rally, okay?"

lead trans p 19-21.

Where's the plan for racially motivated violence? A plan is stated to keep the Antifa domestic terrorism organization away from the torches, not to throw torches at them. If an attack was planned, would these be insisting that the police be present? Their concern is that someone, the Antifa vigilante terror organization, might attack them. And, unlike the "public face" of chatter on these Discord servers, there is no mention here of "Jews", "Negroes", or any racial or religious minority.

part, Cantwell then attends a second "PSO meeting", though he is not a "PSO" and doesn't know what a "PSO" is. lead trans p 25-34. (The term apparently means "Personal Security Organization:") This meeting is led by one "Ajax", real name unknown to Cantwell, who is also conspicuously not a Defendant here. Ajax then discusses the plan that has been entered into with the Charlottesville Police Department to bring demonstrators to and from Lee Park. Some clown in the audience again discusses the "truck of peace", but, again, Cantwell is neither involved in the conversation nor agrees to it. lead trans p 29. Ajax tells "PSDs", Personal Security Detail members; to wear "khakis, white polos, um, whatever boots you can run in," and blazers if they are carrying guns, a convenient way for law enforcement to identify them, and, potentially transforming a legal permitless "open carry" in Virginia into an unlawful unpermitted "concealed carry", giving law enforcement an excuse to make an arrest. lead trans p 31. Cantwell, however, doesn't appear August 12th in this uniform, and, again, he's not "PSD". lead trans p 25. Ajax discusses "gel pepper spray", which Cantwell neither has nor uses. lead trans p 32. And, when confronted about his camera, Cantwell says that he's using it because he's doing nothing wrong. lead trans p 33. Again, there's no conspiracy, there's no "public face / private face" duplicity, there's nothing here.

- 11) After Ajax' talk, Cantwell specifically divests himself of his lawfully carried guns and bulletproof vest before attending the torchlight parade. lead trans p 34. If he was plotting violence, would have not gone to get weapons instead of to put them away? Ray now appears for the first time to talk to Cantwell. lead trans p 35-37. And, then, Kessler notifies the group that an injunction

has been granted, prompting ²⁰⁰¹⁶ ~~Kline~~ to give the final plan. lead trans p 37-45. They cancel "Vandal's" plan to seize Lee Park at 6 AM. lead trans p 40-42. And, they discuss how to comply with the Charlottesville Police Department's instructions. lead trans p 42-45.

- 12) So, this is the problem that the Plaintiffs and their counsel have: right now, the FBI should be investigating them for fraud for raising \$10 million dollars with #SueANazi without telling the sucker donors that there's no case. This is why Plaintiffs want to segway away from a "conspiracy" and into "aiding and abetting" liability at trial, and, why the Court needs to be vigilant to prevent this.

Conspiracy v Aiding And Abetting

- 13) Solicitation and incitement are acts that can, under certain circumstances, be made the objects of criminal liability. see, eg, United States v Miselis 972 F 3d 518 (4th Cir 2020) citing Brandenburg v Ohio 395 US 447 (1969). However, as long as they remain inchoate, they are not privately actionable; for their to be a private action based upon a solicitation or incitement theory, there has to be an injury, which essentially means that the solicitation or incitement has to rise to the level of aiding and abetting; the controlling case on this is Rice v Paladin Enters 128 F 3d 233 (4th Cir 1997). In Rice, the defendant, Paladin Press Enterprises, published a book, Hit Man: A Technical Manual For Independent Contractors, which was used as a guide by a man who murdered Rice's family. Rice sued, and, Paladin Press stipulated that it did intend Hit Man as a solicitation to commit murder. The Fourth Circuit then found that when a solicitation or incitement leads to the commission of a tort, the solicitor or inciter may be liable as an aider and

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abetter (under Maryland law, though Cantwell is aware of no substantive difference with Virginia law.) Rice.

- 14) Conspiracy, however, is a very different creature. As the Court has noted in its Order denying the Motion to Dismiss, Sines v Kessler 324 F Supp 765 (WD Va 2018), conspiracy requires that "Plaintiffs must allege that each Defendant entered into an agreement with a specific co-conspirator to engage ... in racially motivated violence at the August 11th and 12th events. The plausibility of these factual allegations increases as Plaintiffs add specificity about the method of agreement, the time or place of the agreement, and, the scope of the agreement."
- 15) The Defendants have pled that the agreement involving Cantwell occurred August 11 at the meeting, a transcript of which is attached, where no such agreement occurred, and, no reasonable jury could find that such a meeting occurred. Further, Cantwell is somewhat unique here in that he doesn't really know the other Defendants in this matter. He doesn't socialize with them. He has little contact with them. And, he's only at the meeting because "Vandal", the Code Red provocateur, has invited him at the last minute to attend.
- 16) Cantwell has just begun to review what turns out to be thousands of poorly labelled electronic documents that the Plaintiffs dumped on him in April 2021, and, which he was prohibited from reviewing until September 15, 2021. However, it is clear from the so-called "expert" reports, which Cantwell has also addressed in his Motion regarding bias against Judaism and which he will also likely address in another Motion in Limine, that what the Plaintiffs are trying to do is introduce inflammatory statements that Cantwell has made on his podcast much prior to the instant event, statement that

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will likely be also offered out of context, and, use the "experts" to take what is really an aiding and abetting argument and twist it into a "conspiracy."

- 17) For example, in its ruling of Sines v Kessler 2021 US Dist LEXIS 72553 (WD Va 2021), this Court ruled that Blee and Simi would be permitted to opine that "To organize [Unite the Right], Defendants used the cultural symbols, rituals, slogans, language, and, references to historical figures that are the hallmarks of the WSM [the so-called White Supremacist Movement]", "Defendants shaped and made use of WSM culture and networks to recruit participants and to plan and execute [Unite the Right].", "The coordinated race-based violence facilitated and committed by the Defendants at [Unite the Right] is emblematic of WSM tactics." At the time that the Court made this ruling, the Plaintiffs were misrepresenting to the Court that they could make a case that the Defendants engaged in a conspiracy on Discord, and, that they would have language that was ambiguous and which could be helpful interpreted by two woke ~~attorneys~~ opining for money that "Defendants used WSM tactics, principally the reliance on racial animus as a motivator, the intentional use of violence to achieve their goals, and, a coordinated strategy to obfuscate their aims through the use of 'double-speak', 'front stage / back stage behavior' and a discrete and new age communications platform." Sines.

- 18) Certain defendants objected to Blee's and Simi's proposed testimony because it is absurd and demonstrably false as well improperly opines on an ultimate question; unfortunately, absurd and demon-

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strably false testimony is something of a staple of the federal judicial system, as the law permits a jury to judge all credibility issues, and, experts in a civil case may opine on an ultimate issue, unlike in a criminal matter. Fed.R.Evid. 601, 701-702, 704. Cantwell isn't challenging this here. However, the proposed expert testimony and all testimony regarding Cantwell's or others prior statements, whether on podcasts or Discord or anywhere else, still require foundation and relevance, and, that's what's challenged here.

- 19) If the Plaintiffs had any basis to argue that Cantwell engaged in a conspiracy that led to the specific torts suffered by the Plaintiffs, an alleged violent charge at the Thomas Jefferson statue, the alleged throwing of a torch at Romero, whatever it is that "John Doe" is complaining of, then, this testimony about prior statements that comprised the formation of that conspiracy and their meaning would be relevant. Further, if this expert testimony was intended to interpret the remarks that the video recording shows Cantwell made August 11, 2021, when he allegedly entered the conspiracy, this testimony could be relevant. For example, if Cantwell had made some statement like "okay, I guess I'll have to lead the attack on those Negroes when we go to lynch them at the Jefferson statue", and, he was arguing this was a "joke", his prior podcast statements like "boy, I'd like to lynch me some Negroes", would be relevant to show motive, and, these experts could contextualize that. But, there is nothing here on this video that could possibly give this expert testimony on the meaning of Cantwell's prior podcast statements or even the introduction of those statements any relevance. What statement on this tape of the alleged agreement to engage in racial violence needs this contextualization?

- 20) What the Plaintiff's actual theory is is that Cantwell made racially violent or arguably racially violent statements months prior to these rallies, and, that somehow this, perhaps by osmosis, infected the demonstrators and caused them to commit torts such as assault or violations of Va Ann Code §8.01-42.1. That's what experts like Lipstedt, Blee, and Simi are for, and, that is what these prior statements are for. If the Plaintiffs wanted to pursue that line of reasoning, which is an aiding and abetting theory and not conspiracy and not conspiracy, they had to plea it. They didn't. And, because they didn't, they must now be barred from presenting that theory of liability and any evidence that solely supports it.
- 21) And, while its not clear that one can conspire to commit negligence, the same arguments made in favor of aiding and abetting can be made in favor of contributory negligence, i.e., that Cantwell knew that people listening to his show might take his statements about racial violence a certain way and he was thus negligent in contributing to, say, a torch being thrown at Romero. These arguments, for the same reasons given above, should be barred because the Plaintiffs have not given Cantwell notice in their pleading of their intent to pursue such a theory.

Thus, for good cause shown, Cantwell Moves this Court In Limine To Bar Arguing Or Presenting Evidence In Support Of Theories Of Aiding And Abetting Or Contributory Negligence.

Respectfully Submitted,



Christopher Cantwell
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Marion, IL 62959

CERTIFICATE OF SERVICE

I hereby certify that this Motion in Limine was mailed to the Clerk of the Court, 1st Class postage prepaid, for posting upon the ECF system to which all parties are subscribed, as well as handed to USP-Marion staff members Nathan Simpkins and/or Kathy Hill for electronic transmission to the Court, this 27th day of September, 2021.



Christopher Cantwell

WESTERN DISTRICT OF VIRGINIA

Charlottesville Division

Elizabeth Sines, et al

Plaintiffs

v

Jason Kessler, et al

Defendants

Case No: 3:17-cv-072-NKM

MOTION FOR LEAVE TO SUPPLEMENT DEFENDANT'S EXHIBIT LIST
AND DISCLOSURE OF THE TRANSCRIPT OF THE AUGUST 11, 2017, LEADERSHIP
MEETING

Comes Now the Defendant, Christopher Cantwell, and, he Moves this Court for Leave to Supplement his Exhibit List with the attached transcript of the August 11, 2017, "Leadership Meeting" and, also Discloses this Transcript to all parties pursuant to Fed.R.Civ.P. 26. In support, Cantwell states as follows:

- 1) The Second Amended Complaint in this matter alleges that, on August 11, 2017, Cantwell entered into the charged conspiracies by reaching an agreement with Defendants Ray and Kline to commit acts of violence at a meeting at MacIntire Park.
- 2) Cantwell has indicated in several of his previous filings that he intends to introduce at trial a video of that meeting which he made using a body camera, and, that this video will show that he reached no such agreement with Ray, Kline, or, any other person.
- 3) In August of 2021, Cantwell for the first time gained access from USP-Marion to the video of the August 11, 2017 "leadership meeting." Today, September 24, 2021, Cantwell

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has produced the attached transcript of the relevant portion of the body camera video. He avers that this transcript is true and correct, and now discloses this transcript to all other parties pursuant to Fed.R.Civ.P. 26.

- 4) The transcript is an admissible summary document pursuant to Fed.R. Evid. 1006. The Plaintiffs and all other parties have a copy of the original video recording, and, Cantwell anticipates testifying from personal knowledge at the trial as to the truth and correctness of the underlying video.

Thus, Cantwell moves this Court for leave to supplement his exhibit list with this transcript, which he anticipates will be used to examine and cross-examine witnesses and which he will move into evidence with the video of the August 11, 2017, meeting.

Respectfully Submitted,



Christopher Cantwell
USP-Marion
PO Box 1000
Marion, IL 62959

CERTIFICATE OF SERVICE

I hereby certify that this Motion for Leave to Supplement was mailed to the Clerk of the Court, 1st Class Postage prepaid, for posting upon the ECF system to which all other parties are subscribed, and, handed to USP-Marion staff members Nathan Simpkins and/or Kathy Hill for electronic transmission to the Court this 27th day of September, 2021.



Christopher Cantwell

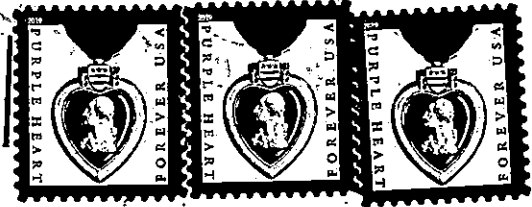
FROM:

Christopher Cantwell
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TO:

⇔00991-509⇔
Clerk U.S. District Court
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United States

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WESTERN DISTRICT OF VIRGINIA

Charlottesville Division

Elizabeth Sines, et al

Plaintiffs

v

Jason Kessler, et al

Defendants

Case No: 3:17-cv-072-NKM

MOTION IN LIMINE TO EXCLUDE EXPERT TESTIMONY THAT IS UN-
DISCLOSED OR DERIVED FROM UNDISCLOSED AND / OR HEARSAY MATERIAL

Comes now the Defendant, Christopher Cantwell, and, he Moves this Court
In Limine To Exclude any and all Expert Testimony which is Derived
From Undisclosed And/Or Hearsay Material. In support, he states as
follows:

- 1) Cantwell gained access to the expert reports of Deborah Lipstadt
and Peter Simi and Kathleen Blee on September 15 2021, and, can
now aver that these reports were not disclosed to him prior to
the closure of discovery, preventing him from deposing these wit-
nesses. Sworn Declaration Of Christopher Cantwell As To The Expert
Reports of Simi, Blee and Lipstadt ("Cantwell Expert Decl"), para
2-5.
- 2) Cantwell has previously objected to Lipstadt's report as irrelevant
because animus against those who identify as "Jews" is irrelevant
to this matter, as undisclosed, as irrelevant because it goes to-
wards an aiding and abetting / incitement theory and doesn't have
foundation in a conspiracy theory of liability, and, inflammatory
and irrelevant because it attempts to link Cantwell to the Holocaust®,
a historical event that occurred three generations

- ago, and, decades before Cantwell was born. Cantwell has also objected to the testimony of Simi and Blee as irrelevant because animus against Judaism is irrelevant, animus against "immigrants, social minorities and feminism" is irrelevant, because it goes towards an aiding and abetting / incitement and doesn't have foundation in a conspiracy theory of liability, and, irrelevant because its only legitimate purpose is to contextualize Defendants' comments on Discord, and, Cantwell was not active or only minimally active on the Discord servers in question.
- 3) Cantwell can now aver that the expert reports of Lipstadt, Simi, and Blee were not disclosed during discovery. Fed.R.Civ.P. 26(a) (2) required their disclosure, and, Fed.R.Civ.p. 37(c)(1) requires their exclusion if not disclosed. Because they were not timely disclosed, Lipstadt, Blee and Simi cannot testify.
 - 4) Further examination of Lipstadt's, Simi's and Blee's reports also indicate that they are largely based upon hearsay material, undisclosed and "redacted" material, and/or, depositions of which Cantwell was not noticed. As such, these portions of the report and any opinions derived from this material are inadmissible.
 - 5) Much of Simi and Blee's report as regards Cantwell cites to blog posts authored by the Southern Poverty Law Center ("SPLC") on their Hatewatch blog. The SPLC is a well known Democrat-partisan organization that has been widely criticized for filing lawsuits like the instant lawsuit as a fundraising tool, exaggerating the size and importance of so-called "whitesupremacist" and similar groups, often in coordination with the FBI's Domestic Terrorism Operations Units, to make it seem that its work is much more socially relevant and important than it is. Beyond this

partisanship, these Hatewatch ²⁰⁰²⁸ blogs have not been disclosed to Cantwell, and, do not appear to fit into any exception to the hearsay rules, Fed. R.Evid. 801, et seq. Hearsay is generally not admissible. Fed. R.Evid. 802. And, material derivative of inadmissible hearsay is also not admissible. Fed.R.Evid. 805. Thus, any opinion that Simi or Blee has derived from material published by the SPLC's Hatewatch blog or any similar hearsay source must be excluded at trial.

- 6) Further, both the Lipstadt report and Blee and Simi's reports are based in large part upon material identified as "redacted". Fed. R.Civ.P. 26(a)(2)(B)(ii) requires the disclosure of all "facts or data considered by the witness," and, Fed.R.Civ.p. 37(c)(1) requires the exclusion of all undisclosed material. Because the Plaintiffs have never disclosed this "redacted" material, neither Lipstadt nor Simi and Blee nor any other expert may testify as to any opinion derived from this material.
- 7) Lastly, Cantwell was only ever timely noticed of two depositions, his own and a member of the Rise Above Movement's. He has objected to the use of all other deposition testimony pursuant to Fed.R.Civ. P. 32(a)(1)(A) and 37(c)(1). Much of Lipstadts's and Simi and Blee's reports are derivative of this deposition testimony of which Cantwell received no notice. As such, any opinion that Lipstadt, Simi and Blee, or, any other expert witness derived as a result of this testimony must be excluded at trial.

Thus, for good cause shown, Cantwell Moves in Limine to Exclude Expert Testimony That was not properly Disclosed or which is Derived From Undisclosed And/Or Hearsay Material.

20029 Respectfully Submitted,



Christopher Cantwell
USP-Marion
PO Box 1000
Marion, IL 62959

CERTIFICATE OF SERVICE

I hereby certify that this Motion in Limine was mailed to the Clerk of the Court, 1st Class Postage Prepaid, for posting upon the ECF, to which all other parties are subscribed, and, handed to USP-Marion staff members Nathan Simpkins and/or Kathy Hill for electronic transmission to the Court, this 4th day of October, 2021.



Christopher Cantwell

WESTERN DISTRICT OF VIRGINIA

Charlottesville Division

Elizabeth Sines, et al

Plaintiffs

v

Jason Kessler, et al

Defendants

Case No.: 3:17-cv-072-NKM

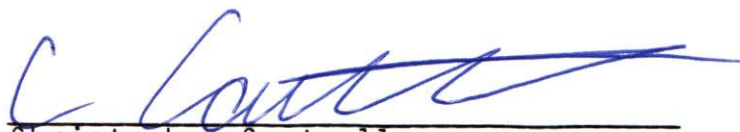
SWORN DECLARATION OF CHRISTOPHER CANTWELL AS TO THE
EXPERT REPORTS OF SIMI, BLEE, AND LIPSTADT

I, Christopher Cantwell, do hereby aver under penalty of perjury this
2nd day of October, 2021, that the following is true and correct:

- 1) I am over 18 years of age and have personal knowledge of the fol-
lowing.!
- 2) I previously averred as to having received a hard drive from the
Plaintiffs between April 6 and 13, 2021, containg over 400 files
and the restrictions on my access to that device.
- 3) Beginning September 15 , 2021, I have been able to review the hard
drives of para 2, supra; these drives actually contain thousands
of files, not all of which I have yet been able to review.
- 4) The drives of para 2, supra, contain the expert reports of Deborah
Lipstadt and of Peter Simi and Kathleen Blee; my receipt of the
drive mark Plaintiff's first disclosure of this information.
- 5) Because Plaintiffs did not disclose these reports to me until
April 2021, after the close of discovery. I was unable to depose
Lipstadt, Simi, or Blee.

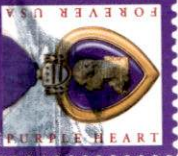
Having so averred, I sayeth no more under oath.

20031



Christopher Cantwell

Energy Awareness Month



SAINT LOUIS MO 630

5 OCT 2021 PM 10 L

Christopher Cantuelli
Inmate #00991-509
OSP Marion
4500 Prison Rd
P.O. Box 2000
Marion, FL 32059

00991-509

Clerk Us District Court
Western District Virginia
255 W MAIN ST
Room 304
Charlottesville, VA 22902
United States

22902-505879



Charlottesville Division

1161

Elizabeth Sines, et al

Plaintiffs

v.

Jason Kessler, et al

Defendants

Case No: 3:17-cv-072

MOTION IN LIMINE TO PERMIT CANTWELL COURT CLOTHES AND BAR

EVIDENCE, TESTIMONY, OR ARGUMENT OF HIS CURRENT INCARCERATION

Comes now the Defendant, Christopher Cantwell, and, he Moves this

Court in Limine to Permit him Court Clothes and Bar Evidence,
Testimony, or Argument of His Current Incarceration. In support,
he states as follows:

- 1) Cantwell is currently incarcerated on charges which are so far in time, geography, and subject matter from the matter before this Court, that exposure of the jury to the facts surrounding that case can only confuse and distract the Jury from the facts at issue here. On those grounds, Cantwell has moved separately to exclude evidence of his "prior alleged felonious conduct".
- 2) The Court granted Cantwell's earlier motion to be transported to this District for trial, and assuming he is to be housed at the Albemarle Charlottesville Regional Jail, he will likely be taken to and from the Courthouse in a cartoonish black and white striped jumpsuit, or similarly conspicuous attire if housed elsewhere.
- 3) Loudly advertising Cantwell's current incarceration will have an unduly prejudicial effect on the Jury, even more so than information about his conviction, by inserting in their minds the idea that he has already been convicted of the facts they are tasked to

4) Cantwell's release is scheduled for December of 2022, which should have him in a halfway house or home confinement by or before August of 2022. Cantwell is neither a fool nor a flight risk.

5) To avoid undue prejudice to Cantwell and his codefendants, the Court should allow Cantwell to have Courtroom appropriate attire delivered either to the Courthouse, or wherever he is to be housed, and permit him to change into such clothing before being seen by the Jury.

6) The Court should also instruct the proper authorities to remove Cantwell's handcuffs before the Jury enters the Courtroom, and wait until the Jury has left before putting them back on.

7) Separately from, and indeed, more importantly than, the question of Cantwell's alleged felonious conduct, the Court should exclude evidence, testimony or argument about Cantwell's current incarceration.

Respectfully Submitted
Christopher Cantwell

 10-4-2021

CERTIFICATE OF SERVICE

I hereby certify that this Motion in Limine was mailed to the Clerk of the Court, and/or handed to USP Marion staff members for electronic transmission to the Court, on this 4th day of October 2021.

Christopher Cantwell



1159

□ □ □ □ □ □ □ □

.....


Christopher Cantwell
USP-Marion
PO Box 1000
Marion, IL 62959

CERTIFICATE OF SERVICE
20036

I hereby certify that this Objection was mailed to the Clerk of the Court, 1st Class postage prepaid, for posting upon the ECF to which all other parties are subscribed, and, handed to USP-Marion staff members Nathan Simpkins and/or Kathy Hill for electronic transfer to the Court, this 4th day of October, 2021.



Christopher Cantwell

Christopher Cantwell
 inmate #00991-509
 USP Marion
 4500 Prison Rd
 P.O. Box 2000
 Marion, IL 62959

SAINT LOUIS MO 630

5 OCT 2021 PM 10 L

Energy Award



Office of the Clerk
United States District Court
Western District of VA
Charlottesville Division
255 West Main Street Rm 304
Charlottesville, VA 22902
202505879